

IN THE SENATE

SENATE BILL NO. 1060

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO PROSTITUTION; AMENDING CHAPTER 56, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-5610, IDAHO CODE, TO ESTABLISH A FELONY FOR UTILIZING A PERSON UNDER EIGHTEEN YEARS OF AGE FOR PROSTITUTION AND TO PROVIDE PENALTIES; AMENDING CHAPTER 56, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-5612, IDAHO CODE, TO PROVIDE FOR PROPERTY SUBJECT TO CRIMINAL FORFEITURE; AND AMENDING SECTION 18-8304, IDAHO CODE, TO PROVIDE FOR A CODE REFERENCE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 56, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-5610, Idaho Code, and to read as follows:

18-5610. UTILIZING A PERSON UNDER EIGHTEEN YEARS OF AGE FOR PROSTITUTION -- PENALTIES. (1) Every person who exchanges or offers to exchange anything of value for sexual conduct or sexual contact with a person under the age of eighteen (18) years shall be guilty of a felony punishable by imprisonment in the state penitentiary for a period of not less than two (2) years, which may be extended to life imprisonment, or by a fine not exceeding fifty thousand dollars (\$50,000), or by both such imprisonment and fine.

(2) As used in this section:

(a) "Sexual conduct" means sexual intercourse or deviate sexual intercourse.

(b) "Sexual contact" means any touching of the sexual organs or other intimate parts of a person not married to the actor for the purpose of arousing or gratifying the sexual desire of either party.

(c) "Anything of value" includes, but is not limited to, a fee, food, shelter, clothing, medical care or membership in a criminal gang as defined in section 18-8502, Idaho Code.

SECTION 2. That Chapter 56, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-5612, Idaho Code, and to read as follows:

18-5612. PROPERTY SUBJECT TO CRIMINAL FORFEITURE. (1) Any person who is found guilty of, who enters a plea of guilty or who is convicted of a violation of section 18-5602 or 18-5609, Idaho Code, no matter the form of the judgment or order withholding judgment, shall forfeit to the state of Idaho:

(a) Any property constituting, or derived from, any proceeds the person obtained directly or indirectly as the result of such violation; and

(b) Any of the person's property used, or intended to be used, in any manner or part to commit or to facilitate the commission of such violation.

(2) The court, in imposing sentence on such person as described in subsection (1) of this section, shall order, in addition to any other sentence imposed, that the person forfeit to the state of Idaho all property described in this section. The provisions of this chapter shall not be construed in any manner to prevent the state of Idaho, the attorney general or the appropriate prosecuting attorney from requesting restitution pursuant to section 19-5304, Idaho Code. The issue of criminal forfeiture shall be for the court alone, without submission to a jury, as a part of the sentencing procedure within the criminal action.

SECTION 3. That Section 18-8304, Idaho Code, be, and the same is hereby amended to read as follows:

18-8304. APPLICATION OF CHAPTER -- RULEMAKING AUTHORITY. (1) The provisions of this chapter shall apply to any person who:

(a) On or after July 1, 1993, is convicted of the crime, or an attempt, a solicitation, or a conspiracy to commit a crime provided for in section 18-909 (assault with intent to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-911 (battery with intent to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-919 (sexual exploitation by a medical care provider), 18-1505B (sexual abuse and exploitation of a vulnerable adult), 18-1506 (sexual abuse of a child under sixteen years of age), 18-1506A (ritualized abuse of a child), 18-1507 (sexual exploitation of a child), 18-1508 (lewd conduct with a minor child), 18-1508A (sexual battery of a minor child sixteen or seventeen years of age), 18-1509A (enticing a child over the internet), 18-4003(d) (murder committed in perpetration of rape), 18-4116 (indecent exposure, but excluding a misdemeanor conviction), 18-4502 (first degree kidnapping committed for the purpose of rape, committing the infamous crime against nature or for committing any lewd and lascivious act upon any child under the age of sixteen, or for purposes of sexual gratification or arousal), 18-4503 (second degree kidnapping where the victim is an unrelated minor child), 18-5605 (detention for prostitution), 18-5609 (inducing person under eighteen years of age into prostitution), 18-5610 (utilizing a person under eighteen years of age for prostitution), 18-5611 (inducing person under eighteen years of age to patronize a prostitute), 18-6101 (rape, but excluding 18-6101(1) where the defendant is eighteen years of age), 18-6108 (male rape, but excluding 18-6108(1) where the defendant is eighteen years of age), 18-6110 (sexual contact with a prisoner), 18-6602 (incest), 18-6605 (crime against nature), 18-6608 (forcible sexual penetration by use of a foreign object), 18-6609 (video voyeurism where the victim is a minor or upon a second or subsequent conviction), 18-7804 (if the racketeering act involves kidnapping of a minor) or 18-8602(1), Idaho Code, (sex trafficking).

(b) On or after July 1, 1993, has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another jurisdiction or who has a foreign conviction that is substantially equivalent to the offenses listed in subsection (1) (a) of this section and

1 enters this state to establish residence or for employment purposes or
2 to attend, on a full-time or part-time basis, any public or private ed-
3 ucational institution including any secondary school, trade or profes-
4 sional institution or institution of higher education.

5 (c) Has been convicted of any crime, an attempt, a solicitation or a
6 conspiracy to commit a crime in another jurisdiction, including mili-
7 tary courts, that is substantially equivalent to the offenses listed in
8 subsection (1) (a) of this section and was required to register as a sex
9 offender in any other state or jurisdiction when he established resi-
10 dency in Idaho.

11 (d) Pleads guilty to or has been found guilty of a crime covered in this
12 chapter prior to July 1, 1993, and the person, as a result of the of-
13 fense, is incarcerated in a county jail facility or a penal facility or
14 is under probation or parole supervision, on or after July 1, 1993.

15 (e) Is a nonresident regularly employed or working in Idaho or is a stu-
16 dent in the state of Idaho and was convicted, found guilty or pleaded
17 guilty to a crime covered by this chapter and, as a result of such con-
18 viction, finding or plea, is required to register in his state of resi-
19 dence.

20 (2) An offender shall not be required to comply with the registration
21 provisions of this chapter while incarcerated in a correctional institution
22 of the department of correction, a county jail facility, committed to the de-
23 partment of juvenile corrections or committed to a mental health institution
24 of the department of health and welfare.

25 (3) A conviction for purposes of this chapter means that the person has
26 pled guilty or has been found guilty, notwithstanding the form of the judg-
27 ment or withheld judgment.

28 (4) The department shall have authority to promulgate rules to imple-
29 ment the provisions of this chapter.